

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1586 - HB 1981

February 1, 2016

SUMMARY OF BILL: Creates a Class E felony for knowingly manufacturing marijuana concentrate by a process which includes the use of an inherently hazardous substance.

Defines “inherently hazardous substance” as any liquid chemical, compressed gas, or commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including butane, propane, and diethyl ether.

Creates a Class A misdemeanor for owning, managing, operating, or otherwise controlling the use of any premises and knowingly allowing marijuana concentrate to be manufactured on the premises by a process which includes use of an inherently hazardous substance.

Creates a new offense of aggravated child abuse, neglect, or endangerment when the abuse, neglect, or endangerment results from the knowing exposure of a child to the manufacture of marijuana concentrate by a process which includes use of an inherently hazardous substance.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$555,900/Incarceration*

Assumptions:

- The manufacture of marijuana concentrates, whether using an inherently hazardous substance or not, is already a criminal offense under Tenn. Code Ann. § 39-17-417 as it involves the manufacture of a Schedule VI controlled substance (tetrahydrocannabinols), which is a Class E felony.
- The Class E felony for manufacturing marijuana concentrates by a process which includes the use of an inherently hazardous substance will not impact incarceration costs.
- The bill will increase incarceration costs for the new aggravated child abuse, neglect, or endangerment offense.
- Under current law, aggravated child abuse, neglect, or endangerment is committed when child abuse, neglect, or endangerment is committed and:
 - The act of abuse, neglect or endangerment results in serious bodily injury to the child;

SB 1586 - HB 1981

- A deadly weapon, dangerous instrumentality, controlled substance or controlled substance analogue is used to accomplish the act of abuse, neglect or endangerment;
- The act of abuse, neglect or endangerment was especially heinous, atrocious or cruel, or involved the infliction of torture to the victim; or
- The act of abuse, neglect or endangerment results from the knowing exposure of a child to the initiation of a process intended to result in the manufacture of methamphetamine as described in § 39-17-435.
- Exposing a child to the manufacturing marijuana concentrate by a process which includes use of an inherently hazardous substance is not likely to rise to the level of aggravated child abuse, neglect, or endangerment unless the inherently hazardous substance combusts and causes serious bodily injury to the child.
- The offenses would otherwise be Class A misdemeanor child neglect, unless the child is less than eight years of age, in which case it is a Class E felony. The bill will result in additional admissions for aggravated child abuse, neglect, and endangerment. Aggravated child abuse, neglect, or endangerment is a Class B felony, unless the child is less than eight years of age, in which case it is a Class A felony.
- It is assumed that the bill will result in one additional Class B felony each year and one Class E felony child neglect offense being enhanced to Class A felony aggravated child abuse, neglect, or endangerment each year.
- The average time served for a Class B felony is 6.59 years (2,407 days). The average time served for a Class E felony is 1.47 years (536.92 days) and 17.35 years (6,337.09 days) for a Class A felony.
- One offender per year will serve an additional 15.88 years (5,800.17 days) for Class A felony aggravated child abuse, neglect, or endangerment rather than Class E felony child neglect (17.35 years Class A felony – 1.47 years Class E felony).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- A recidivism discount applies, but due to the low number of admissions added by this legislation, the recidivism discount does not impact the incarceration cost for the proposed legislation.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2016 is \$67.73.
- The bill will create one new Class B felony case (2,407 days) per year and enhance one Class E felony case to a Class A felony case (5,800.17 days).
- The bill will increase incarceration costs by \$555,871.62 $[(5,800.17 + 2,407) \times \$67.73]$.
- It is assumed that the courts, district attorneys, and public defenders can handle the minimal impact to their caseloads within their existing resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm